

1st Rdy - 3-25-13
2nd Rdy - 4-8-13

ORDINANCE NO. 33-13

Introduced By Mr. Hedrick

AN ORDINANCE CREATING CHAPTER 108 - GRANTS TO FOSTER ECONOMIC DEVELOPMENT OF THE CODIFIED ORDINANCES OF THE CITY OF CONNEAUT, OHIO, AS FURTHER DESCRIBED IN EXHIBIT "A" ATTACHED HERETO.

WHEREAS, the daily operations of the City of Conneaut and the City Manager's Office require the enactment of this legislation; and

WHEREAS, the retention and creation of jobs and employment is integral to the future economic health of the City of Conneaut, Ohio; and

WHEREAS, the use of governmental resources for the promotion of economic development in the community is in the public interest and is a proper exercise of municipal powers under Article VIII, Section 13 of the Ohio Constitution and constitutes an appropriate exercise of the powers of local self-government under Article XVIII, Section 3; and

WHEREAS, notwithstanding Section 718.15 of the Ohio Revised Code which authorizes a municipality to grant a credit against tax on income to a taxpayer that also receives a credit under Section 122.17 of the Revised Code, it is within the authority vested in the City of Conneaut under its Charter and under Article XVIII, Section 3, above, to provide incentives to businesses to retain, create and expand employment opportunities within the City of Conneaut, Ohio; and

WHEREAS, funding for the grants to foster economic development authorized by the attached legislation shall come from non-income tax revenue sources such as interest income, permit fees, activity fees, service charges and tax incentive application and monitoring fees.

BE IT ORDAINED, by the City of Conneaut, County of Ashtabula and State of Ohio:

SECTION 1. That Chapter 108 – Grants to Foster Economic Development of the Codified Ordinances of the City of Conneaut, Ohio, a complete copy of which is attached hereto as Exhibit "A", is hereby created.

SECTION 2. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council or any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 3. That for the reasons stated in the preamble, this Ordinance is declared to be an emergency measure in the interests of public peace, health and safety and to allow for the creation of said new Chapter and, if approved by votes of two-thirds or more members of Council eligible to vote, shall take effect immediately upon passage and signing by the President of Council, otherwise this ordinance shall take effect thirty (30) days after passage.

Passed this 8th day of April, 2013.

Thomas M. Ellett
President of Council

ATTEST:

Camela L. Dwyer
Clerk of Council

CHAPTER 108
GRANTS TO FOSTER JOB DEVELOPMENT

108.01	Definition	108.04	Compliance Required
108.02	Grants for Job Creation	108.05	Additional Requirements for
108.03	Application, Terms of Agreement		Joint Economic Development
			Districts

108.01 Definitions.

As used in this Section:

(a) "Income tax revenue" means the total amount withheld under Section 191.02 of the Codified Ordinances by the taxpayer during the taxable year, or during the calendar year that includes the tax period, from the compensation of each employee employed in the project. "Income tax revenue" excludes amounts withheld before the day the taxpayer becomes eligible for the grant.

(b) "Baseline income tax revenue" means income tax revenue, except that the applicable withholding period is the twelve (12) months immediately preceding the date the taxpayer's application is filed with the City Manager, multiplied by the sum of one (1) plus an annual pay increase factor to be determined by the City Manager, which may in his discretion be zero but which shall not exceed 0.05 per year (yielding a maximum total annual pay increase multiplier of 1.05). If the taxpayer becomes eligible for the grant after the first day of the taxpayer's taxable year or after the first day of the calendar year that includes the tax period, the taxpayer's baseline income tax revenue for the first such taxable or calendar year of grant eligibility shall be reduced in proportion to the number of days during the taxable or calendar year for which the taxpayer was not eligible for the grant. For subsequent taxable or calendar years, "baseline income tax revenue" equals the unreduced baseline income tax revenue for the preceding taxable or calendar year multiplied by the sum of one (1) plus the pay increase factor.

(c) "Excess income tax revenue" means income tax revenue minus baseline income tax revenue.

(d) "New job" means an employment position created within the grant recipient's last full tax year prior to the date of application for a grant under this Chapter, or to be created not later than the end of the second full tax year following the date of such application. A position is deemed to be a new job if it was subject to a layoff more than six (6) months but less than twenty-four (24) months prior to the date of application and is to be filled under the terms of the project.

(e) "Project" means an expansion of an existing business enterprise, a relocation of a business enterprise, the opening of an additional location of a business enterprise or the creation of a business enterprise, which pays wages that are subject to the tax imposed in Chapter 191 of the Codified Ordinances of the City of Conneaut.

108.02 GRANTS FOR JOBS CREATION

The City Manager may make grants under this Chapter to foster job creation in the City of Conneaut. Such a grant may take the form of a refundable credit allowed against the tax imposed by Chapter 191 of the Codified Ordinances.

(a) The grant shall only be claimed for the taxable years or tax periods specified in the grant recipient's agreement with the City Manager under Section 108.03.

(b) The amount of the grant available for a taxable year or for a calendar year that includes a tax period equals the excess income tax revenue for that year multiplied by the percentage specified in the agreement.

108.03 APPLICATION; TERMS OF AGREEMENT

A taxpayer or potential taxpayer who proposes a project to create new jobs in the City of Conneaut may apply to the City Manager to enter into an agreement for a grant under this section. The application shall be accompanied by a non-refundable application fee as established by ordinance and amended as necessary. The City Manager shall prescribe the form of the application. After receipt of an application, the City Manager may negotiate an agreement with the taxpayer for Council consideration for approval of a grant under this section if the City Manager determines all of the following:

- (a) The taxpayer's project will increase payroll and income tax revenue;
- (b) The taxpayer's project is economically sound and will benefit the people of the City and State by increasing opportunities for employment and strengthening the economy;
- (c) Receiving the grant is a major factor in the taxpayer's decision to go forward with the project;
- (d) An agreement under this section shall include all of the following:
 - (1) A detailed description of the project that is the subject of an agreement;
 - (2) The term of the grant, which shall be calculated based upon the taxpayer's estimate of the average annual payroll attributable to new jobs created during the first three (3) years of the project, as follows:

Annual payroll under \$100,000 – 3 years

Annual payroll at least \$100,000 but less than \$500,000 – 5 years

Annual payroll at least \$500,000 but less than \$1,000,000 – 7 years

Annual payroll at least \$1 million but less than \$3 million – 10 years

Annual payroll of \$3 million or more – 15 years

(3) A requirement that the taxpayer shall maintain operations at the project location for at least the greater of seven (7) years or the term of the grant plus three (3) year;

(4) The percentage of excess income tax revenue that will be allowed as the amount of the grant for each taxable year or for each calendar year that includes a tax period, which shall be determined as follows:

- 1 – 4 new jobs – 10%
- 5 – 19 new jobs – 20%
- 20 – 29 new jobs – 33%
- 30 – 49 new jobs – 45%
- 50 – 99 new jobs – 60%
- 100 or more new jobs – 75%

(5) A requirement that each new job qualifying for inclusion in the grant involve an average work week of not less than thirty-two (32) hours and an hourly wage of not less than one hundred ten percent (110%) of the prevailing State minimum wage, or an amount equivalent thereto in the case of salaried workers.

(6) A requirement that the taxpayer annually shall report tax withholding, investment, and other information the Manager reasonably requires to ensure compliance with this Chapter.

(7) An acknowledgement that the taxpayer may carry forward any unused portion of the available grant for a period of up to three (3) years, but that the amount of the grant applied in any given year will not exceed seventy-five percent (75%) of excess income in that year;

(8) A requirement that the taxpayer pay an annual monitoring fee as established by ordinances and amended as necessary.

108.04 COMPLIANCE REQUIRED

(a) If a grant recipient fails to meet or comply with any condition or requirement set forth in the grant agreement, the City Manager may amend the agreement to reduce the percentage or term of the grant. The reduction of the percentage or term may take effect in the current taxable or calendar year. The agreement shall provide at a minimum that the amount of the annual grant be reduced by twenty-five percent (25%) for each year in which the grant recipient does not achieve at least ninety percent (90%) of the grant recipient's projected annual payroll above; and by fifty percent (50%) for each year the grant recipient does not achieve at least seventy-five percent (75%) of the grant recipient's projected annual payroll.

(b) If the City Manager determines that a grant recipient who has received a grant under this section is not complying with the requirement under Section 108.03 (d)(3), the City Manager shall notify the City Council of the non-compliance. After receiving such a notice, and after

giving the grant recipient an opportunity to explain the non-compliance, the City Council may require the grant recipient to refund to the City of Conneaut a portion of the grant in accordance with the following:

(1) If the grant recipient maintained operations at the project location for a period less than or equal to the term of the grant, an amount not exceeding one hundred percent (100%) of the sum of any grants allowed and received under the section;

(2) If the grant recipient maintained operations at the project location for a period longer than the term of the grant, but less than the greater of seven (7) years or the term of the grant plus three (3) years, an amount not exceeding seventy-five percent (75%) of the sum of any grants allowed and received under this section.

(c) In determining the portion of the grant to be refunded to the City, the City Council shall consider the effect of market conditions on the grant recipient's project and whether the grant recipient continues to maintain other operations in this state. After making the determination, the City Council shall certify the amount to be refunded to the City Finance Director for collection as and with any other taxes of the City.